

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN RUST, CHARLES J. PALMER,
PETER HOCHSTEIN, and STEVEN
HARPER,

Plaintiffs,

v.

FRANK GUNTER, Individually and as
Director of Correctional Services,
CHARLES BLACK, Individually and as
warden of Nebraska State Penitentiary,
CHARLES HOHENSTEIN, Individually
and as Legal Aid Coordinator, JOHN P.
SHAW, Individually and as Associate
Warden, Programs, TERENCE B.
CAMPBELL, Individually and as Legal Aid
Coordinator, JOHN T. EGGERS,
Individually and as Housing Unit Manager,
MARIO PEART, Individually and as Unit
Administrator, HAROLD W. CLARKE,
Individually and as Associate Warden,
Custody, GARY GRAMMER, Individually
and as Warden of the Nebraska State
Penitentiary, and FRED BRITTEN,

Defendants.

4:84CV712

MEMORANDUM OF HEARING BY
TELEPHONE FEBRUARY 1, 2012

My conversation by telephone on February 1, 2012, with Michael J. Wilson, counsel for the plaintiffs, and Linda Willard, counsel for the defendants, is recognized by the court as a hearing, insofar as the judge accepted into evidence ECF No. 136, Index of Evidence in Support of Motion for Protective Order, consisting of:

Exhibit – Affidavit of Counsel in Support of Plaintiffs’ Motion for Protective Order

Exhibit 2 – Affidavit of Jeffrey Hessler

Exhibit 3 – Affidavit of John Lotter

Exhibit A – Envelope from Cline Williams LLP postmarked 10-31-11

Exhibit B – Envelope from Court of Appeals postmarked 10-31-11

Exhibit C – Memo from Danny Hayes dated 12-31-11

Exhibit 4 – Affidavit of Raymond Mata

Exhibit 5 – Affidavit of Jorge Galindo

Exhibit 6 – Affidavit of Jose Sandoval

Exhibit 7 – Affidavit of Michael Ryan

Exhibit 8 – Affidavit of Carey Dean Moore

Exhibit 9 – Affidavit of Marco Torres

Exhibit 10 – Affidavit of Roy Ellis

Exhibit 11 – Affidavit of Eric Vela

Exhibit 12 – Affidavit of Arthur Gales

offered by the plaintiff and the Exhibit Index, ECF. No. 141, consisting of Exhibits 1 through 4, offered by the defendants.

The exhibits now received in evidence show no inappropriate misuse of the mails at the Tecumseh State Correctional Institution (TSCI) with respect to the plaintiffs or any of them since the issuance of the January 12, 2012, clarification document by Director Bob Houston. In light of that it appears that I best can hold in abeyance the Motion for Protective Order, ECF No. 134. Depending upon the activity or lack of activity regarding the mail handling, the motion should be ready for resolution by April 1, 2012, or be declared moot.

Dated February 1, 2012.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge